

AMENDED IN ASSEMBLY APRIL 3, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2776

Introduced by Assembly Member Plescia Yee

February 24, 2006

An act to amend Section ~~84507~~ of the Government Code 4094 of the Welfare and Institutions Code, relating to the Political Reform Act of 1974 mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2776, as amended, Plescia Yee. ~~Political Reform Act of 1974: disclosures. Mental health: community treatment facilities: seclusions and restraints.~~

Under existing law, community treatment facilities are residential facilities that are licensed by the State Department of Social Services and the State Department of Mental Health to provide residential care and mental health treatment services to children in a group setting, and that have the capacity to provide secure containment.

Existing law requires the State Department of Mental Health to adopt regulations establishing program standards for any facility licensed as a community treatment facility. These regulations are required to include standards for treatment, staffing, and for the use of psychotropic medication, discipline, and restraints.

Until January 1, 2007, existing law prohibits the department from requiring 24-hour onsite nursing staff at community treatment facilities. Until January 1, 2007, existing law requires these facilities to retain at least one full-time, or full-time equivalent, registered nurse onsite, in specified circumstances, to have other medical or nursing staff available on call within one hour when necessary, and to

have all direct care staff trained in providing first aid and other emergency services. Until January 1, 2007, existing law permits the department to adopt emergency regulations as necessary to implement these provisions.

This bill would remove the termination date of January 1, 2007, thus indefinitely extending these provisions.

~~(1) Existing provisions of the Political Reform Act of 1974, an initiative measure, requires advertisements for or against any candidate or ballot measure to include certain disclosures and specifies that if the communication is broadcast the information shall be spoken so as to be clearly audible and understood by the intended public and otherwise appropriately conveyed for the hearing impaired.~~

~~This bill would provide that these audio disclosures for candidates may instead be disclosed by a recording accessible by toll-free telephone call.~~

~~(2) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.~~

~~This bill, which would declare that it furthers the purposes of the act, would therefore require a $\frac{2}{3}$ vote.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: ~~no~~
yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4094 of the Welfare and Institutions
2 Code is amended to read:

3 4094. (a) The State Department of Mental Health shall
4 establish, by regulations adopted at the earliest possible date, but
5 no later than December 31, 1994, program standards for any
6 facility licensed as a community treatment facility. This section
7 shall apply only to community treatment facilities described in
8 this subdivision.

9 (b) A certification of compliance issued by the State
10 Department of Mental Health shall be a condition of licensure for
11 the community treatment facility by the State Department of
12 Social Services. The department may, upon the request of a
13 county, delegate the certification and supervision of a community
14 treatment facility to the county department of mental health.

1 (c) The State Department of Mental Health shall adopt
2 regulations to include, but not be limited to, the following:

3 (1) Procedures by which the Director of Mental Health shall
4 certify that a facility requesting licensure as a community
5 treatment facility pursuant to Section 1502 of the Health and
6 Safety Code is in compliance with program standards established
7 pursuant to this section.

8 (2) Procedures by which the Director of Mental Health shall
9 deny a certification to a facility or decertify a facility that is
10 licensed as a community treatment facility pursuant to Section
11 1502 of the Health and Safety Code, but no longer complying
12 with program standards established pursuant to this section, in
13 accordance with Chapter 5 (commencing with Section 11500) of
14 Part 1 of Division 3 of Title 2 of the Government Code.

15 (3) Provisions for site visits by the State Department of Mental
16 Health for the purpose of reviewing a facility's compliance with
17 program standards established pursuant to this section.

18 (4) Provisions for the community care licensing staff of the
19 State Department of Social Services to report to the State
20 Department of Mental Health when there is reasonable cause to
21 believe that a community treatment facility is not in compliance
22 with program standards established pursuant to this section.

23 (5) Provisions for the State Department of Mental Health to
24 provide consultation and documentation to the State Department
25 of Social Services in any administrative proceeding regarding
26 denial, suspension, or revocation of a community treatment
27 facility license.

28 (d) The standards adopted by regulations pursuant to
29 subdivision (a) shall include, but not be limited to, standards for
30 treatment, staffing, and for the use of psychotropic medication,
31 discipline, and restraints in the facilities. The standards shall also
32 meet the requirements of Section 4094.5.

33 (e) (1) ~~Until January 1, 2007~~ *In addition to the foregoing*, all
34 of the following are applicable:

35 (A) A community treatment facility shall not be required by
36 the State Department of Mental Health to have 24-hour onsite
37 licensed nursing staff, but shall retain at least one full-time, or
38 full-time equivalent, registered nurse onsite if both of the
39 following are applicable:

40 (i) The facility does not use mechanical restraint.

(ii) The facility only admits children who have been assessed, at the point of admission, by a licensed primary care provider and a licensed psychiatrist, who have concluded, with respect to each child, that the child does not require medical services that require 24-hour nursing coverage. For purposes of this section, a “primary care provider” includes a person defined in Section 14254, or a nurse practitioner who has the responsibility for providing initial and primary care to patients, for maintaining the continuity of care, and for initiating referral for specialist care.

(B) Other medical or nursing staff shall be available on call to provide appropriate services, when necessary, within one hour.

(C) All direct care staff shall be trained in first aid and cardiopulmonary resuscitation, and in emergency intervention techniques and methods approved by the Community Care Licensing Division of the State Department of Social Services.

(2) The State Department of Mental Health may adopt emergency regulations as necessary to implement this subdivision. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, and general welfare. The regulations shall be exempt from review by the Office of Administrative Law and shall become effective immediately upon filing with the Secretary of State. The regulations shall not remain in effect more than 180 days unless the adopting agency complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, as required by subdivision (e) of Section 11346.1 of the Government Code.

(f) During the initial public comment period for the adoption of the regulations required by this section, the community care facility licensing regulations proposed by the State Department of Social Services and the program standards proposed by the State Department of Mental Health shall be presented simultaneously.

(g) A minor shall be admitted to a community treatment facility only if the requirements of Section 4094.5 and either of the following conditions are met:

(1) The minor is within the jurisdiction of the juvenile court, and has made voluntary application for mental health services pursuant to Section 6552.

1 (2) Informed consent is given by a parent, guardian,
2 conservator, or other person having custody of the minor.

3 (h) Any minor admitted to a community treatment facility
4 shall have the same due process rights afforded to a minor who
5 may be admitted to a state hospital, pursuant to the holding in *In*
6 *re* Roger S. (1977) 19 Cal.3d 921. Minors who are wards or
7 dependents of the court and to whom this subdivision applies
8 shall be afforded due process in accordance with Section 6552
9 and related case law, including *In re* Michael E. (1975) 15 Cal.3d
10 183. Regulations adopted pursuant to Section 4094 shall specify
11 the procedures for ensuring these rights, including provisions for
12 notification of rights and the time and place of hearings.

13 (i) Notwithstanding Section 13340 of the Government Code,
14 the sum of forty-five thousand dollars (\$45,000) is hereby
15 appropriated annually from the General Fund to the State
16 Department of Mental Health for one personnel year to carry out
17 the provisions of this section.

18 ~~SECTION 1. Section 84507 of the Government Code is~~
19 ~~amended to read:~~

20 ~~84507. (a) Any printed disclosure statement required by this~~
21 ~~article shall be printed clearly and legibly in no less than 10-point~~
22 ~~type and in a conspicuous manner as defined by the commission.~~

23 ~~(b) (1) If the communication is broadcast, the information~~
24 ~~shall be spoken so as to be clearly audible and understood by the~~
25 ~~intended public and otherwise appropriately conveyed for the~~
26 ~~hearing impaired.~~

27 ~~(2) Any disclosure statement in an audio advertisement, except~~
28 ~~as required by subdivision (c) of Section 84504, may be~~
29 ~~disclosed in a recording accessible by a toll-free telephone call in~~
30 ~~lieu of being spoken in the advertisement.~~

31 ~~SEC. 2. The Legislature finds and declares that the provisions~~
32 ~~of this act further the purposes of the Political Reform Act of~~
33 ~~1974 within the meaning of subdivision (a) of Section 81012 of~~
34 ~~the Government Code.~~